UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,889	03/26/2004	Yoshifumi Tanimoto	042089	7798

38834 7590 08/22/2007 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036	**EXAMINER** SAMS, MATTHEW C

ART UNIT	PAPER NUMBER
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>07 August 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
    <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

LESTER G. KINCAID
SUPERVISORY PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: In response to the applicant's argument regarding claim 1 that "there is no disclosure in Dorenbosch concerning the target buddy subheader 48 including forwarding destination information wherein the instant message is transferred to the mobile subscriber 12 based on the forward destination information included in the target buddy subheader 48" (Page 3), the examiner disagrees.

Dorenbosch clearly teaches instant messages sent by a conventional subscriber 14 are routed through the IM server 20 to a proxy 24' and finally forwarded to the mobile subscriber 12. (Page 3 [0033] 1st sentence) Clearly, the conventional subscriber must transmit the instant message to the IM server, with the address of the IM server included in the message. Since the IM proxy 24' logs into the IM server on behalf of mobile subscriber 12, the IM server forwards all instant messages intended for mobile subscriber 12 to the IM proxy 24'. Once the proxy server receives an instant message, the IM proxy must determine which mobile subcriber the message is intended for (because the IM proxy can obviously support multiple mobile subscribers). Dorenbosch teaches the proxy server "recognizes, via information contained in the target buddy subheader 48 (Fig. 3), tha the message is intended for the mobile subscriber 12". (Page 3 [0033] 2nd Sentence) Therefore, it is obvious that Dorenbosch teaches the target buddy subheader includes forwarding destination information, because that is how Dorenbosch's IM proxy determines the message is intended for a mobile subscriber. (Pages 3-4 [0033])

In response to the applicant's argument regarding claim 13 that Dorenbosch fails to disclose or fairly suggest "transmitting an instant message including identification information of the terminal of the forwarding destination from the terminal of the forwarder to a communication device when the user of the fowarding destination is not logged in the instant message server" (Page 5), the examiner disagrees.

Dorenbosch teaches the "IM proxy 24' registers with the IM server 16 (Fig. 1) on behalf of the mobile subscriber 12 and provides availability information to mobile subscriber buddies such as the conventional subscriber 14. However, it does not maintain a constant connection with the mobile subscriber 12". (Page 3 [0033]) Dorenbosch clearly teaches the mobile subscriber 12 never logs into the IM server, but rather an IM proxy registers on the mobile subscriber's behalf. Further, Dorenbosch teaches the IM proxy 24' has a message buffer (Fig. 2 [36]) for storing messages when a mobile subscriber becomes temporarily unavailable. (Page 2 [0020] and Pages 3-4 [0033]) Therefore, Dorenbosch clearly teaches that a mobile subscriber does not have to be logged into an instant message server and another conventional subscriber can still transmit an instant message inluding identification information (subheader 48) when the terminal is not logged into a mobile server. (Page 2 [0020] and Pages 3-4 [0033]).